IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 3055 of 2006(L)

PETITIONER:

1. THE MANAGER, ALP SCHOOL,
   EZHUVATHURUTHY.

2. V.C. JAYAKRISHNAN, LPSA,
   ALP SCHOOL, EZHUVATHURUTHY.

BY ADV. SMT.V.P.SEEMANDINI (SR.)
SMT.S.KARTHIKA
SMT.T.B.REMANI
SMT.K.P.GEETHA MANI

RESPONDENTS:

1. THE DISTRICT EDUCATIONAL OFFICER,
   THIRUR.

2. ASSISTANT EDUCATIONAL OFFICER,
   PONNANI.

BY GOVERNMENT PLEADER SHRI.T.T.MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON 11/09/2007 DELIVERED THE FOLLOWING:

W.P(C).No.3055/06.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE APPOINTMENT ORDER DTD.23.3.05.

P2. COPY OF THE ORDER DTD.20.6.05 BY R2.

P3. COPY OF THE ORDER DTD.20.6.05 BEFORE R1.

P4. COPY OF THE ORDER DTD.8.12.05 BY R1.

P5. COPY OF THE ORDER DTD.7.10.05.

P6. COPY OF THE GOVT. ORDER DTD.27.7.05.

P7. COPY OF THE INTERIM ORDER DTD.9.4.97 IN CMP NO.11756/97 IN O.P.NO.6494/97.

P8. COPY OF THE INTERIM ORDER DTD.27.7.03 IN CMP NO.11756/97 IN O.P.NO.6494/97.

P9. COPY OF THE SENIORITY LIST OF TEACHERS.

P10 COPY OF THE SERVICE BOOK OS SADNDHYA.P'S RELINQUISHMENT ORDER DTD.3.2.05.

P11. COPY OF THE SERVICE BOOK OF BINOY'S AND RELINQUISHMENT ORDER DTD.25.1.05.

P12. COPY OF THE ORDER DTD.15.7.05.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No. 3055 of 2006

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Dated this the 11th day of September, 2007

J U D G M E N T

This writ petition is filed by the manager of the A.L.P. School, Ezhuvathuruthy, and a teacher of that school, at a time when the respondents refused to approve the appointment of the 2nd petitioner with effect from 23.3.2005 as L.P.S.A. in the school. In this writ petition this court passed an interim order on 16.3.2006, which reads thus:

> "Heard learned counsel for the petitioners and learned Government Pleader.
>
> Having regard to the facts and circumstances and also keeping in view Ext.P8 order passed by this court in O.P.No.6494/97 which is stated to be still pending, I am satisfied that petitioner No.2 is entitled to get his salary. Therefore, the respondents are directed to disburse salary to petitioner No.2 with effect from March 23, 2005 provisionally and subject to further orders in this writ petition and also in O.P.No.6494/97. It is also made clear that if ultimately it is fount that the appointment of petitioner No.2 is not liable to be approved petitioner No.1 shall be liable to refund the amount."

It is reported that pursuant to the interim order the appointment of the 2nd petitioner has since been approved provisionally subject to the result of the writ petition. The grounds on which the appointment was refused to be approved are; (1) the vacancy which arose was on resignation of another teacher, which was not approved, (2) there was a proposal to reduce two posts and, (3)

there was a management dispute. Now the learned Government Pleader admits that the first two objections do not survive any longer because of subsequent events. Regarding the third contention, it is settled law as laid down by this court in the decision in *Padmanabhan Nambiar v. Government of Kerala* reported in 1997(2) KLT 725, that the management dispute in an aided school should not stand in the way of approval of teachers who have been appointed validly. There is no other valid objection against approval of the 2nd petitioner's appointment in this case. In the above circumstances, there cannot be any valid objection to the approval of the appointment of the 2nd petitioner any more. Accordingly, the writ petition is disposed of with a direction that the approval granted to the 2nd petitioner's appointment pursuant to the interim order dated 16.3.2006 shall be considered as regular and salary and other benefits shall be disbursed and continued to be disbursed accordingly.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE